

## **Why Obtain a Trademark?**

The main purpose of a trademark is to identify and distinguish one company's goods or services from another's. Trademarks are not only beneficial to companies; they also benefit consumers. Trademarks help consumers select goods and services, because trademarks represent the goodwill of the company and the quality it puts into its goods and services. The consumer does not necessarily need to know the name of the company when it encounters the goods or services, but upon recognizing the trademark, the consumer will know the quality of goods and services sold by that company. Trademarks are enhanced through extensive use and advertising.

While federal registration is not required, there are many benefits.

- First, the owner of a federally registered mark is presumed in court to have the exclusive right to use the mark in commerce in connection with the specified goods or services.
- Second, a federal registration confers on the owner evidence of continued use of the mark since the filing date of the application.
- Third, if a controversy involving the trademark arises subsequent to federal registration, a non-registrant has the burden in court of demonstrating that his or her use predates that of the registrant.
- Fourth, the owner of a federally registered mark is presumed to have nationwide rights to the use of the mark.
- Fifth, the owner of a federally registered mark has the right to bring suit in federal court regardless of diversity.
- Also, owners of federally registered marks can register their marks with the U.S. Customs Service, who will in turn stop the importation into the U.S. of goods that bear infringing marks.
- Finally, there are a number of statutory remedies that a federally registered owner is afforded.

### **Maintaining Trademark Rights**

Unlike copyrights and patents, a trademark can last indefinitely, provided that the trademark owner continues to use the mark in commerce as an identifier of the source of goods or services.

The term of a federal registration is 10 years, with unlimited renewal terms of 10 years. Renewals may only be filed in the 6 months prior to expiration of the federal registration. In addition, the PTO requires trademark owners to file a declaration of use between the 5th and 6th year of the initial registration. Both the renewals and the declaration require evidence that the mark is still in use. If either the renewals or the declaration are not filed in a timely manner, the trademark registration ultimately will be declared abandoned.